

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

FILED  
U.S. DISTRICT COURT  
WAYCROSS DIV.  
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SO. DIST. OF GA.

STEVE GELIS,

Plaintiff,

v.

PENELOPE J. KNOX, USMS,  
Supervisory Deputy; PAMELA  
L. FOWLER; and Dr. CARTER,

Defendants.

CIVIL ACTION NO.: CV509-022

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff filed an action pursuant to 28 U.S.C. § 1331 and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), alleging violations of his constitutional rights while he was housed at D. Ray James Detention Facility.

On June 3, 2010, this Court entered an Order allowing Plaintiff to add Dr. Carter, an orthopedic surgeon, as a Defendant in this case. On September 17, 2010, D. Ray James Correctional Facility returned a process waiver stating that they did not employ anyone by the name of Dr. Carter. Rule 4(m) of the Federal Rules of Civil procedure states, "If a defendant is not served within 120 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant . . ." Local Rule 41(b) provides that the Court may dismiss an action for "failure to prosecute an action with reasonable promptness." It has been over 200 days since Dr. Carter was added as a party to this action, and he has yet to be served.

Based on the foregoing , it is my **RECOMMENDATION** that the claims against Dr. Carter be **DISMISSED**.

**SO REPORTED** and **RECOMMENDED**, this 3<sup>rd</sup> day of January, 2011.



JAMES E. GRAHAM  
UNITED STATES MAGISTRATE JUDGE